

PRESERVED

App. F. IX-4

Previous References

Uo 74-22(1-3)

1936.

(Ch)

File No. 158-36

Serial Nos. 1-2

Letter References.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 2

Part B for February 1937

SUBJECT.

Issue of new rule of practice no 159 of
supercession of rule of practice no 159 of
19-1-1923.

for no 1998 of 16-2-37

more Regd. High
and

WD 0418-GPB-22,500-29-8-86

Saundered.

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General and Revenue
Secretariat

File No.

158

of 1936.

[App. F. III-2

Serial
No.

1

From

The Registrar High Court

Roc No 631 /36-37 dt 4.2.37

Requests Sanction to the issue of a new Rule
of practice in supersession of Rule of practice
No 159 dt 19-1-1923.

Submitted with previous reference and a
draft of a G.O. sanctioning for approval or
other Order.

Copy
9/2
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The existing Rule on this subject is
found as Rule 5 para 576 page 158 of

Civil Circulation Rule 5 practice &
VI I.

Circular order. It is proposed to
attempt to replace this rule by a more
exhaustive rule applicable to all, movable
cases. The rule stands at present
notice has to go even to parties that
were to part from the beginning.

This is avoided in the new rule. No
notice is necessary to such people as
they have deliberately chosen to
not to take part in the proceedings.
The proposed rule is clearer.

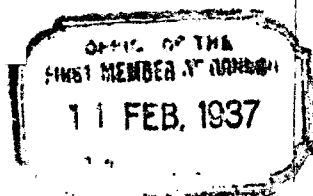
WD 0417-GPB-30,000-3-9-36

This may be sanctioned

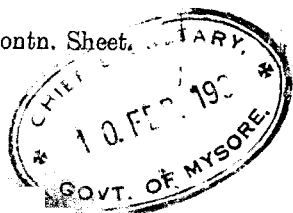
chief Secy)

For attl.

member)



NOTE-Contn. Sheet.



107
MS 10-2
11/2

File No.

of 193

General and Revenue
SecretariatSerial
No.

Send for orders as to whether the draft in
the file may issue

CBR
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corrected
13.2

13. FEB. 1937

ENCL. 1

To

2

The Registrar High Court

4998 of 16.2.37

Reverts

Sanctions to the issue of a new Rule
of practice in supersession of Rule of practice
No 159 of 19.1.23.

3
2337

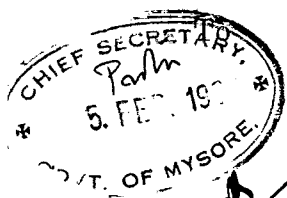
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158-36-1

R. O. C. No. 631
D. Dis. 36-37

HIGH COURT OF MYSORE,
Public Office Buildings, Cubbon Park,
Bangalore, 4th February 1937.

FROM

T. Shamiengar, Esq., B.A., B.L.,
~~A. Sundararaja Rao, Esq., B.A., B.L.,~~
~~S. Venkata Ranga Iyengar, Esq., B.A., LL.M.,~~
Registrar, High Court of Mysore.



B.T. Kesavaiengar, Esq., B.A.,
Chief Secretary to the Government of Mysore,
B a n g a l o r e.

SIR,

Key's" I am directed to refer to G.O. No.P.5760-70/Cts. 74-22-3, dated 17th January 1923, sanctioning Rule of Practice No.159, dated the 19th January 1923. In the year 1915 it was decided that, when cases were remanded, it was enough to put up a notice of the date of hearing in the Court to which the remand was made. But on a representation in the Representative Assembly and at the request of the Government the matter was reconsidered, and the present rule was made in 1923 (Rule of Practice 159, dated 19-1-1923, printed as paragraph 576 of the Civil Rules of Practice and Circular Orders, Volume I). The Judges of the High Court find that the rule has been misunderstood and that time is often wasted by sending Court-notices to parties who have allowed proceedings to go ex parte against them at earlier stages and who, as they take no interest in the cases, have no claim to any notice. If parties are reasonably diligent and business-like, all who are interested must know of a remand and can ascertain from the Court to which the case is remanded when it is coming on. But, even if the Courts are to be tenderly considerate not only to ignorant parties but also to negligent parties, the Judges are of opinion that the present rule can well be improved without departing in any way from its intention. They propose therefore that the said rule shall be modified so as to run as follows, viz:-

["When a suit, appeal or other matter is remanded for fresh disposal or any additional evidence or finding is called for. the lower Court. to which the case

is remanded or which is directed to submit any additional evidence or finding, shall on receipt of the records of the case fix a date for the further hearing of the case before it and notify that date on its - notice-board. Notice of that date shall also be given by the said Court in writing to the pleader of every party who has - appeared by pleader at any earlier stage of the case in the said Court, including proceedings under Order IX of the Code of Civil Procedure or under Rule 19 or Rule 21 of Order XLI of the said Code, provided that the pleader has not withdrawn from the case. And to every party to the case who is not represented by a pleader notice of the date fixed for the further hearing shall be sent at the cost of the said Court by registered post to the address which the party has given for service, provided that no notice of the further hearing need be sent to any party who has not appeared at any earlier - stage of the case in the said Court or who has not given any address for service".]

2. It appears to the Judges of the High Court that by a slip the present rule was made applicable only to cases sent back by an appellate Court. The rule ought to apply also to cases sent back by the High Court in revision. Moreover "remanded" as used in the present rule is not really a correct term to apply to cases in which additional evidence or findings are called for. And, if notice is to be given to pleaders, it should be

given not only to those who represented parties originally but also to those who represented parties coming in at a later stage in restoration or setting aside proceedings. In these respects the proposed rule will be more favourable to parties than the present rule. On the other hand an unrepresented party, who has given no address for service or who has allowed all proceedings in the case to go ex parte against him, has no claim for consideration, and the further hearing of the case should not be held up on his account. The new rule proposed will be clearer than the present rule, will carry out thoroughly the intention of the present rule and will also save delays which the makers of the present rule could hardly have intended to allow.

3. I am therefore to request that the Government may be pleased to accord their sanction to the issue of a new Rule of Practice as set out in paragraph 1 above in supersession of Rule of Practice No.159, dated 19th January 1923.

I have the honour to be,

Sir,

Your most obedient servant,

J. Shanmugaraj
Registrar.

NRH

SUBJECT

Diary No. of letter replied to

General and Revenue Secretariat

the

193 .

Date of issue 16. 2. 1937.

Signed by

Mr. A. S. R.

Haj S.

May this be—

- (i) printed ?
- (ii) treated as a standing order ?
- (iii) published in the Gazette, English Part ?
- (iv) translated ?
- (v) placed at the disposal of the press ?
- (vi) published in the Gazette Kannada Part ?

Section ch

File No. 576-70

Serial No. 2

Proceedings of the Government of
His Highness the Maharaja of Mysore.

Read—

G.O. No P 5760-70/Cts 74-22-3
of 17.1.1923 according Sanction
to the issue of Rule of
practice No 159 of 19.1.1923
(printed as Paragraph 576 of
the Civil Rules of Practice

Order thereon.—No.

and Circular orders

Vol I)

2) Letter No Roc 631/36-37
of 4.2.37 from the
Registrar High Court
requesting, in the circumstances
explained, sanction to
the issue of a new R

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Of practice as set out in
the accompanying Statement
in supersession of Rule
of Practice No 159 of
19. 1. 1923. Referred to above.

Order P 4998/Rule 1. of.

Sanctioned

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Chief Secretary to Government

To

The Registrar High Court

List of Enclosure

Copied by

Examined by

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Proceedings of the Government of His Highness
the Maharaja of Mysore.

R e a d :-

Government Order No.P.5760-70/Cts.74-22-3 dated 17th January 1923 according sanction to the issue of Rule of Practice No.159 dated 19th January 1923 (printed as paragraph 576 of the Civil Rules of Practice and Circular Orders, Volume I.)

2. Letter No.R.O.C.631/36-37 dated 4th February 1937 from the Registrar, High Court, requesting, in the circumstances explained, sanction to the issue of a new Rule of Practice as set out in the accompanying statement in supersession of Rule of Practice No.159 dated 19th January 1923 referred to above.

Order No. *P4998 CS-158-36-2*
enc. one

Dated, Bangalore, the 15th February 1937.

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S A N C T I O N E D.

Amuramaya
For Chief Secretary to Government.
Am

To

The Registrar, High Court of Mysore,

mk.2

Rule of practice

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" When a suit, appeal or other matter is remanded for fresh disposal or any additional evidence or finding is called for, the lower Court, to which the case is remanded or which is directed to submit any additional evidence or finding, shall on receipt of the records of the case fix a date for the further hearing of the case before it and notify that date on its notice-board. Notice of that date shall also be given by the said Court in writing to the pleader of every party who has appeared by pleader at any earlier stage of the case in the said Court, including proceedings under Order IX of the Code of Civil Procedure or under Rule 19 or Rule 21 of Order XLI of the said Code, provided that the pleader has not withdrawn from the case. And to every party to the case who is not represented by a pleader notice of the date fixed for the further hearing shall be sent at the cost of the said Court by registered post to the address which the party has given for service, provided that no notice of the further hearing need be sent to any party who has not appeared at any earlier stage of the case in the said Court or who has not given any address for service".

Amudamoyal,
For Chief Secretary to the Govt.